

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

EDUARDO C. FIGUEREDO, #2210239 §

VS. § CIVIL ACTION NO. 2:18cv485

DON DAVIS, et al. §

ORDER OF DISMISSAL

Plaintiff Eduardo Castro Figueredo, a former prisoner confined within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The cause of action was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On January 31, 2022, Judge Payne issued a Report, (Dkt. #14), recommending that Plaintiff's civil rights lawsuit be dismissed, without prejudice, for Plaintiff's failure to prosecute his own case. Judge Payne further recommended that the statute of limitations in this case be suspended for a period of sixty (60) days from the date of the Final Judgment. *See Campbell v. Wilkinson*, 988 F.3d 798, 801 n.1 (5th Cir. 2021) (explaining that "[w]here further litigation of [a] claim will be time-barred, a dismissal without prejudice is no less severe a sanction than a dismissal with prejudice, and the same standard of review is used."). A copy of the Report was sent to Plaintiff at his last-known address. To date, however, Plaintiff has not filed objections and has not communicated with the Court since May 2019.

Because objections to Judge Payne’s Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual

findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).


The Court has nonetheless reviewed *de novo* the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #14), is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that the above-styled civil rights action is **DISMISSED**, without prejudice, for Plaintiff's failure to prosecute his own case. The statute of limitations in this case is hereby **SUSPENDED** for a period of sixty (60) days from the date of Final Judgment. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 1st day of March, 2022.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE